1951-52

File No. Central Agency/51-52

Legal Deptt.

C BRANCH

Subject:—

Central Agency for Government cases in Supreme Court.

Central Agency/51-52

790-C

No. 2008/61 CAS

Secret

GOVERNMENT OF INDIA,
MINISTRY OF LAW,
CENTRAL AGENCY SECTION,
'P' BLOCK, ROOM NO. 31,
NEW DELHI, the 10-8-1961.

My dear Dhurandhar,

I believe, when I was in Bombay, you have told me that the Bombay Government would also like to retain Mr. C.K.Daphtary, Solicitor-General, as Counsel for the State of Bombay. A number of matters of Bombay State are coming before the Supreme Court in this week. If you please confirm, I should brief both the Attorney General and the Solicitor General in appeals for the State of Bombay. As you know if you have retained the Counsel, briefs will have to be offered to them.

I presume that the statements of the cases need not be settled by both the Attorney General and the Solicitor General but any one of them may do it.

With best regards

Yours sincerely,

Sd/- (PORUS A. MEHTA).

[redacted] Government of Bombay.

CONFIDENTIAL. No. 36-P-Confl.

Office of the
Remembrancer of Legal Affairs,
Council Hall, Poona, 14.9.1951.
15

I am in receipt of your D.O.No. 1009/61CAS dated the 10th September 1951. I am to inquire what would be the probable expenditure which will be involved by the retention of Shri C.K.Daphtary as counsel for the State of Bombay. I suppose he will have to be paid a retaining fee as well as the fee for the cases in which he will be appearing with the Attorney General. It will depend upon the number of cases which are at present pending in the Supreme Court in which the State of Bombay is a party and the approximate number in a year.

An early reply is requested.

Id./.... 15/9

Sd.(J.P.Dhurandhar).

Shri Feroz A.Mehta,
Government Agent, Supreme Court,
Ministry of Law, Central Agency Section,
'P' Block, Room No. 31, NEW DELHI.

SMR 30-7-66
4 Copies.

CONFIDENTIAL

No. I 1176/61/CAS,
Government of India,
Ministry of Law,
Central Agency Section,
'B' Block, Room No. 31,
New Delhi, dt. 27.9.1961.

DEAL

My dear Dhurandhar,

Thanks for your letter No. 36-P-Confl dated the 15th September 1961. Mr. C.K. Daphtary is reaching, he will have to be paid a retainer fee of 25 Gns i.e. Rs. 400/- Mr. Daphtary will also charge the same fees as the Attorney-General, namely, 100 Gns i.e. Rs. 1,600/- per day for every case. In criminal matters, Mr. Daphtary cannot appear against the State and, therefore, he need not be given a retainer. He may, however, be briefed in important criminal appeals. In the matters of less importance, a junior Counsel like C.K. Joshi may be briefed. In all constitutional and civil appeals, he may be retained.

The difficulty which I am feeling is that if you retain both the Attorney-General and the Solicitor-General, you will have to supply a brief to both of them and both will be entitled to charge whether they appear or not. Recently a brief had been offered to the Attorney-General in the appeal of Collector of Bombay Vs. The Bombay Municipal Corporation. The Attorney-General could not come at the last moment and I gave a brief to Mr. Daphtary. The Attorney-General will charge and has made a bill for the brief fee, namely Rs. 1,600/- but he has not charged for the 2nd day.

I may point out that in civil matters, if you do not retain the Solicitor-General, he is bound to be briefed by the other side and, I am sure, you will not like the Solicitor-General to appear against the State of Bombay. Please, therefore, consider all these aspects of the case. My advice to you is to retain the Solicitor-General for all civil matters of the State.

With regards.

Yours sincerely,

Sd./ (H.M. A. MEHTA)

J.T. Dhurandhar, Esquire,

Secretary to the Government of Bombay,
Legal Department,
Bombay Castle,
Bombay.

ENC 30-7-56, 4 Copies.

Attention is invited to H.M's minute of 14th September.

The Government Solicitor(Shri Porus Mehta) states that the retainer fee for Shri Daphtary will be Rs. 400/- and he will have to be given a brief in addition to the brief to be given to the Attorney General. In that case his fee will be Rs. 1600(or 100 gns.)per day, the same as that of the Attorney General.

2. At present 14 appeals are pending in the Supreme Court in which the State of Bombay is a party. In addition to 14 appeals 2 petitions for special leave are pending on behalf of the Bombay Government, and 6 petitions by other persons in which the Government of Bombay may be a party, if these petitions are admitted.

3. The Government Solicitor suggests that Shri Daphtary need not be given a retainer in criminal cases, as he cannot appear against the Bombay Government in those cases, although he may not be retained. He however suggests that he should be briefed in important criminal appeals. I would suggest that he should be briefed in all important cases of Constitutional importance in which the validity of enactments is involved. Out of the pending appeals, such cases are six in number(marked with red cross). Out of the six cases, three cases appeal Nos. 20,27 and the Orissa Appeal form one group and invol e the same point. Appeals Nos. 37,38 and 39 also form another group. Thus in all Shri Daphtary's engagement may be in two cases. Both the groups involve important questions of law of Constitutional importance, and Shri Daphtary's engagement in addition to the Attorney General's will be useful from the point of view of the Bombay Government after U.S. to F.D. Id./.... 3/10

H.M.(Law) Id./..... 4/10

H.M.(H.D.) Id./..... 4/10

U.R. to F.D. No. 841-Confl., dt. the 6th Oct. 1951.

SHR 30-7-56
4 Copies.

Confidential.

D.O.

No. 838-Confl.,
Office of the
Remembrancer of Legal Affairs,
Bombay Castle(Bombay No.1), 23/10/51.

I am in receipt of your D.O.Letter No. I-1176/51/C.A.S. dt. the 27th September 1951. Government desires that Shri C.K.Daphtary should be briefed in addition to the Attorney-General in the cases in which questions of Constitutional importances are involved and he should be paid the same fees as are paid to the Attorney-General namely Rs. 1600/- per day per every such case. A list of such Criminal cases in which he should be briefed is appended. There are six appeals and they fall into two groups, and it is presumed that only two briefs to Shri Daphtary would be sufficient. As Shri Daphtary cannot appear in Criminal matters against the State no retainer need be given to him. At present there are no Civil appeals pending before the Supreme Court in which Constitutional points are involved. But if there be Civil appeals involving such points in future Shri Daphtary may be given a brief with a retainer fee of Rs. 400/-.

Id./.... 23/10

Shri Feroz A. Mehta,
Government Agent,
Supreme Court,
Ministry of Law,
Central Agency Section,
P Block, Room No. 21,
NEW DELHI.

b/c

[illegible]
4 Copies.

Confidential

No. I 1289/51/CAS,
Government of India,
Ministry of Law,
Central Agency Section,
'P' Block, Room No. 31,
New Delhi, dt. 6.11.1951.

My dear Dharandhar,

Sub. Retainer to Mr. Daphtary in Civil and criminal matters of the State of Bombay.

Thanks for your letter No. 888-Conft., dated 23rd October 1951.

I will give your retainer in Civil matters to Mr. Daphtary for Rs. 400/- as soon as a Civil appeal comes for hearing.

As for the criminal cases, I do not see how one brief can be given in Group No. 1, since they all deal with different points. If you wish a brief to be given in each of the three matters I can do so. As a matter of fact, in the appeal of State of Orissa Vs. Ismail and another in which the State of Bombay is only intervening, briefs had been delivered to the Attorney-General and Mr. G.N.Joshi long before your letter arrived. If you desire, I can deliver a brief to Mr. Daphtary also. Please let me have clear instructions, therefore, if seperate briefs have to be delivered in all the criminal appeals in Group No. 1.

As for Group No. 2, they have been consolidated and one brief can be given in the first matter; and in the other two matters, the briefs can be marked with a nominal fee, or no briefs need be given at all since a Junior Counsel can appear. In such cases where cases are consolidated, I usually give a brief in the first matter to a Senior Counsel and in the other matters, I merely brief a Junior Counsel, since all the matters are heard together.

With best regards

Yours sincerely,

Sd. (Porus A. Mehta)

J.R. Dharandhar, Esquire,
Secretary to the Government of Bombay,
Legal Department,
Bombay Castle,
Bombay 1.

JMR 30-7-56
4 Copies.

CONFIDENTIAL.

No. 1696/51/CAS,
Government of India,
Ministry of Law,
Central Agency Section,
'P' Block, Room No. 31,
New Delhi, dt. 9.11.1951.

My dear Dharmadhar,

Please refer to your letter of 23rd October 1951 and my reply thereto dated 8th November 1951.

I find that you want Mr. Daphtary to be retained only in Civil Appeals involving questions of Constitutional importance. From this, it seems to me that you have no objection if Mr. Daphtary appears against the State of Bombay in Civil Appeals which do not involve any Constitutional points. I should like you to make this clear, because there are Civil Appeals in which the State of Bombay is a party which do not involve Constitutional questions. I have already written to you about the Court of Wards matter, and there is another appeal of Shrimant Sardar Bhujangrao Daulatrao [illegible] in which the State of Bombay is a party. This appeal only raises the question of the jurisdiction of the Court in a suit affecting revenue. The Attorney-General has already been briefed on behalf of the State and I will not brief Mr. Daphtary. I take it that there will be no objection if Mr. Daphtary appears against the State of Bombay in this matter.

With best regards.

Yours sincerely,

Sd. (Purus A. Mehta)

J.M. [illegible], Esquire,
Secretary to the Government of Bombay,
Legal Department, Bombay Castle,
Bombay 1.

[illegible]
4 Copies.

Very Urgent.

No. 4725.
Legal Department,
Bombay Castle(Bombay No. 1). 24th March 51.

Memorandum.

The undersigned presents compliments to the Accountant General, Bombay, and is directed to convey the sanction of Government to the drawal of Rs. 6376-14-0 by the Secretary to Government of Bombay, Legal Department, and to place the same at the disposal of the Government Agent, Ministry of Law, New Delhi through the Accountant General, Central Revenues, New Delhi, on account of amount payable to the Central Government towards the expenditure incurred on the Central Agency Section in respect of the work done in the Supreme Court of India on behalf of the State of Bombay for the period from 4-8-1950 to 31-1-1951.

2. The charge should be debited to supplies and services Public Prosecutor for Bombay under "27 Administration of Justice-Law Officers 31(4) Contingencies" which is being supplemented.

By order of the Governor of Bombay,

Id./ S.P.B(Sangura).
Assistant Secretary to Government.

To

The Accountant General, Bombay(Through Finance Department).

ETC.

STH 30-7-56
4 Copies.

IMMEDIATE

No. F. 177/52-GA
GOVERNMENT OF INDIA
MINISTRY OF LAW
.....

From

Shri Mangharam Bhavandas,
Under Secretary to the Govt., of India.

To

The Accountant General,
Central Revenues,
New Delhi.

New Delhi the 7th November, 1952.

(THROUGH THE MINISTRY OF FINANCE)

Subject:- Creation of a Central Agency under the Ministry of Law for the Conduct of Cases in the Supreme Court on behalf of the Central and State Governments.

.....

Sir,

In partial modifications of this Ministry's letter No. F.17/50 GA, dated the 11th July 1950, I am directed to convey the sanction of the President to the redesignation, with immediate effect and until further orders, of the posts of Government Agent and Deputy Government Agent in the Central Agency Section of this Ministry as those of Government Advocate and Government Agent, respectively.

2. The posts as redesignated will carry the scales of pay attached to them before redesignation.

Yours faithfully,

Sd/-

(MANGHARAM BHAVANDAS)
Under Secretary.

No. F. 177/52-GA

Copy forwarded to:-
1. The Chief Secretaries to the Government of all Part A and Part B States(expecting Jammu and Kashmir);

Etc.

GMP 30-7-56
4 Copies.

Sd. MANGHARAM BHAVANDAS
Under Secretary.

Legal Department.

Submitted.

The retainer fee of Rs. 400/- given to Shri Daphtary, Solicitor General of India, in October 1951 by D.O.No. 888-Confl. dated the 23rd October 1951 has expired and a fresh retainer will have to be given to him in all civil cases in the Supreme Court. In that case he will have to be briefed in all important cases of Constitutional importance as the Bombay Sales Tax matter, the Public Trust matter, Requisition appeals and Prevention of Ex-communication matter etc. All these cases involve important questions of constitutional importance and Shri Daphtary's engagement in addition to the Attorney General's will be useful from the point of the Bombay Government. The papers may be shown to F.D. very urgently. R.L.A. may see before the papers are shown to F.D.

Id./..... 31/12
Sol

Id./..... 31/12

Addl. Secy.

Id./..... 31/12

R.L.A. I would like to discuss this with the Additional Secy.

Id./..... 31/12

The retainer may at this stage be confirmed to cases involving constitutional questi ns.

I shall separately take up with the Minister of Law the general question of the Govt. of India's Law Officers not appearing against the states.

Id./..... 31/12

SMR 30-7-56
4 Copies.

Retainers

Payment of annual general retainer to Shri C.K.Daphtary Solicitor General of India.

GOVERNMENT OF INDIA.
Legal Department,
Resolution No. 308/2
Bombay Castle 6th January 1953.

RESOLUTION:- Sanction is accorded to the payment of a general annual retainer in civil cases involving constitutional questions to Shri C.K.Daphtary, Solicitor General to the Government of India, New-Delhi on behalf of the State of Bombay on payment of a fee of Rs. 400/-.

2. The expenditure should be debited to the budget head "27-B-Adm. of Justice B-Law Officers B-I Presidency Law Officers B-I(4)Contingencies" and met from the sanctioned grants.

By order and in the name of the Governor of Bombay.

Sd/ R.T.KATARKI
Deputy Secretary to Government.

To

The Finance Department,
Etc.

SLR 30-7-56
4 Copies.

No. DA IV/27.AJ/Contt/[illegible]

Bombay February 1953.

From

THE ACCOUNTANT GENERAL,
BOMBAY.

To

The Accountant General,
Central Revenues,
New Delhi.

Sub:- Payment of annual general returns to Shri C.K.Daphtary Solicitor General of India.

SIR

I am to authorise you to arrange to pay Rs. 400/- (Rupees four hundred only) to Shri C.K.Daphtary, Solicitory-General to the Government of India, Ministry of Law, New Delhi at the New Delhi Treasury as sanctioned by Govt. of Bombay in G.R.L.D.No. 308/E dt. 6th January 1953, as a payment of a general annual retainer in Civil cases involving constitutional questions.

The amount when paid may please be passed on to this office through the Inter Government Suspense Account under "27-Administration of Justice-B.Law Officer-B.I Presidency Law Officers B.1(4)contingencies".

The Treasury Officer, New Delhi may please be instructed to inform this the date of payment and the amount paid.

Yours faithfully,

Sd/.....

Asstt. Accountant General.

No. DA. IV/27 AJ/Contt/2881. Dated 17/2/53.

Copy to the Secretary to Government of Bombay, Legal Department with reference to G.R.L.D.No. 308/E, dated 6.1.53.

Sd/.....
Asstt. Accountant General.

[illegible]
4 Copies.